

DETAILED ACTION

Claims 77 and 78 are currently pending in the instant application, appear allowable over the prior art of record and have been renumbered as claims 1 and 2.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Hayzer on 21 August 2009.

The application has been amended as follows:

1. Insert the following sentence on line3, page 1 following the heading "CROSS REFERENCE TO RELATED APPLICATION" :

-- This application is a 371 of PCT/US04/09548 filed March 29, 2004. --

Response to Amendment

Applicants' amendment filed 16 June 2009 has overcome the objection to the claims as the claims are drawn solely to the method of using the elected species. The 35 USC 112 2nd paragraph rejection of claims 70-76 is withdrawn as the claims have been cancelled. As claims 7-13 and 70-76 have been cancelled, the 35 USC 112 1st paragraph rejection is withdrawn. Applicants' newly filed claims 77 and 78 overcome the 35 USC 112 1st paragraph rejection as the claims are limited to modulating HIF-1 activity to **reduce** the amount of an HIF-1a gene-specific product. Support for the newly

added claims can be seen, for example, in Figure 4 and pages 56 and 57 of the specification.

Drawings

The drawings were received on 16 June 2009. These drawings are accepted.

Specification

Applicants' amendment to the specification by inserting page numbers has overcome the objection to the specification.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance. This invention relates to methods of modulating HIF-1 activity with the compound of claim 77 to reduce the amount of an HIF-1 α gene-specific product. The novel and nonobvious aspect of this invention involves the specific method of modulating HIF-1 activity with the compound of claim 77. The closest prior art of record fails to teach or suggest the instantly claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rebecca L. Anderson whose telephone number is (571)

272-0696. Mrs. Anderson can normally be reached Monday through Friday from 6:00am until 2:30pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*/Rebecca Anderson/
Primary Examiner, AU 1626*

28 August 2009

Rebecca Anderson
Primary Examiner
Art Unit 1626, Group 1620
Technology Center 1600